

## **REMARKS**

### **Amendments to the Claims**

The amended language of the claims does not add new matter to the application; the feature of at least two shelving members is inherent in the device since the original application submitted to the Patent Office describes a “storage unit”. A storage unit may contain any number of shelving members. Within the written description the number of shelving members is not limited, and the storage unit with three shelving members depicted in Fig. 1 is only one embodiment of the present invention.

Also it should be noted that in view of the examiner’s earlier restriction requirement, applicant retains the right to present original claims 26 and 27 in a divisional application.

### **Remarks regarding Examiner’s rejection of Claims 1-4, 6, 10-12, 14 and 18-21 under 35**

#### **USC § 102(b):**

The Examiner has rejected claims 1-4, 6, 10-12, 14 and 18-21 under 35 USC § 102(b) as being anticipated by U.S. Patent No. 3,278,043 (“Kimpton”). The present invention is not anticipated by Kimpton for several reasons.

Of the claims rejected under 35 USC § 102(b) as being anticipated by Kimpton, the sole independent claims are claims 1, 10 and 18. Independent claim 1 recites as a claim element “recessed structural beams having a return flange at their base [and] a recessed flange at their top.” Independent claim 10 recites as a claim element “recessed structural beams having a return flange at their base and a recessed flange at their top.” The recessed flange of the structural beam is a required element of the embodiments of these claims. The recessed flange is “recessed” because the base of the flange resides lower, i.e. recedes, than the top of the structural

beam. The recessed flange is an important structural limitation of the embodiment of the present invention because of the inherent properties it provides. The recessed flange provides support to the shelving member from the sides as well as the bottom, obviating the need for a completely separate part to trap the sides of the particle board, provide support from the bottom, and establish a double thickness of material. See Brief Summary of the Invention, p. 4. The strip width of the steel is established to accommodate a 180 degree return bend and 90 degree flange; the 180 degree return bend has a double thickness that also adds rigidity to the edge of the material, distributing static and dynamic loads and contributing additional overall strength and capacity. See Id. The recessed flange is designed such that once the framework on the unit is assembled, the shelving member will drop into the frame and rest inside the beams and braces. See Id.

In contrast to the present invention, Kimpton does not disclose structural beams that include a recessed flange at their top. Although the Examiner cites Fig. 2 of Kimpton for disclosing structural beams with a return flange, a recessed flange, and a rib therebetween, Fig. 2 actually depicts a structural beam where the upper flange is not a recessed flange. As discussed above, the recessed flange of the present invention has a base residing lower than the top of the structural beam. Contrary to the arguments of the Examiner, Kimpton does not disclose a storage unit having structural beams that include a recessed flange at their top. Thus Kimpton does not also provide important benefits of the present invention that are due to the recessed flange. Unlike the present invention, the storage unit of Kimpton which lacks structural beams having a recessed flange at their top cannot provide support to the shelving member from the sides as well as the bottom, and therefore needs a completely separate part to trap the sides of the particle board and lacks a double thickness of material. Unlike the present invention, the storage

unit of Kimpton which lacks structural beams having a recessed flange at their top to provide double thickness does not add rigidity to the edge of the material, distribute static and dynamic loads and contribute additional overall strength and capacity. Unlike the present invention, the storage unit of Kimpton which lacks structural beams having a recessed flange at their top is not designed such that once the framework on the unit is assembled, the shelving member will drop into the frame and rest inside the beams and braces.

Claims 2-4, 6, 11, 12 and 14, also rejected under 35 U.S.C. §102(b) as being anticipated by Kimpton, depend from the independent claims 1 and 10 discussed above. These dependent claims are patentable because they depend from patentable independent claims.

Furthermore, dependent claims 3 and 12 recite as a claim element a recessed flange at top of the recessed structural beams taking the form of an “L” shape where the base of said “L” is parallel to the horizontal return flange located at the base of the recessed structural beams. As discussed above, Kimpton does not teach or suggest structural beams having a recessed upper flange at their top, and therefore also does not teach or suggest structural beams having a recessed flange at top of the recessed structural beams taking the form of an “L” shape where the base of said “L” is parallel to the horizontal return flange located at the base of the recessed structural beams as in claims 3 and 12.

In addition, dependent claims 6 and 14 recite as a claim element a shelf member that contains “a slight taper from the base to the top of said shelf member so that the distance from the end of the shelf member base to the vertical centerline of the shelf member is greater than the distance from the end of the shelf member top to the vertical centerline of the shelf member, [where] said taper allows clearance for various attachments.” Kimpton does not teach or suggest such a shelf member; in fact Kimpton does not discuss shelf members of the storage unit at all,

nor are shelf members pictured in the drawings.

Independent claim 18, also rejected under 35 U.S.C. §102(b) as being anticipated by Kimpton, recites as a claim element “structural beams having an angled return flange at their base, an angled standard flange at their top, and a rib there between.” The angled flanges of the structural beam are required elements of the embodiment of this claim. The angled flanges are an important structural limitation of the invention because of the inherent properties they provide. The angled flanges add rigidity to the beam. The slight angle in the flanges allows complete surface contact with the shelving member as load is progressively applied. See Brief Summary of the Invention, p. 3.

In contrast to the present invention, Kimpton does not disclose structural beams having an angled flange at their base and an angled flange at their top. Although the Examiner cites Fig. 2 of Kimpton for disclosing structural beams with angled flanges at their top and bottom and a rib therebetween, Fig. 2 actually depicts a structural beam where the upper and lower flanges are not angled. As discussed above, the angled flanges of the embodiment of the present invention are important structural limitations. Contrary to the arguments of the Examiner, Kimpton does not disclose a storage unit having structural beams having an angled flange at their base and an angled flange at their top. Thus Kimpton does not also provide important benefits of the present invention that are due to the angled flanges. Unlike the present invention, the storage unit of Kimpton which lacks structural beams having an angled flange at their base and an angled flange at their top do not add rigidity to the beam and allow complete surface contact with the shelving member as load is progressively applied.

Claims 19-21, also rejected under 35 U.S.C. §102(b) as being anticipated by Kimpton, depend from independent claim 18 discussed above. These dependent claims are patentable

because they depend from a patentable independent claim.

The Applicant respectfully disagrees with the Examiner's rejection of claims 1-4, 6, 10-12, 14 and 18-21 based on § 102(b) because Kimpton does not teach or suggest the structure claimed in Applicant's invention.

**Remarks regarding Examiner's rejection of Claims 5, 7-9, 13, 15, 16 and 22-25 under 35**

**U.S.C. §103(a):**

The Examiner has rejected Claims 5, 7-9, 13, 15, 16 and 22-25 under 35 U.S.C. § 103(a) as being unpatentable over Kimpton in view of U.S. Patent No. 4,106,630 ("Rosenband"). The references the Examiner has cited, either taken alone or combined, do not teach or suggest the Applicant's invention as claimed. A review of the two references, Kimpton and Rosenband, shows that they are bereft of offering a device that teaches or suggests the Applicant's invention.

Claims 5, 7-9, 13, 15 and 16 depend from independent claims 1 and 10 discussed above which require recessed structural beams having a return flange at their base and a recessed flange at their top, which is not taught or suggested by Kimpton. Claims 22-25 depend from independent claim 18 discussed above which requires structural beams having an angled flange at their base and an angled flange at their top, which is not taught or suggested by Kimpton. Independent claim 25 recites a "recessed structural beam for use with a storage unit comprising: a horizontal return flange on the base of said recessed structural beam... a rib... and a recessed flange at top of said recessed structural beam taking the form of "L" shape where the base of said "L" is parallel to the horizontal return flange located at the base of said recessed structural beam." As discussed above, Kimpton does not teach or suggest structural beams having a recessed flange at their top. Since Kimpton does not teach or suggest structural beams having a

recessed flange at their top, i.e. a flange receding from the top portion of the beam, Kimpton also does not teach or suggest structural beams having a recessed flange at the top of the structural beam taking the form of “L” shape where the base of said “L” is parallel to the horizontal return flange located at the base of the recessed structural beam as in claim 25. Rosenband does not remedy these deficiencies; Rosenband teaches a structural beam merely having one shelf forming wall portion (Rosenband, col. 3, l. 9-14, and Fig. 3) and a structural beam having two shelf forming wall portions that extend from the upper and lower edges (Rosenband, col. 4, l. 46-60, and Fig. 9). Thus Rosenband does not teach or suggest structural beams having a recessed flange at their top as claimed by Applicant; Rosenband does not teach or suggest structural beams having an angled return flange at their base and an angled standard flange at their top as claimed by Applicant.

The Applicant respectfully disagrees with the Examiner’s rejection of claims 5, 7-9, 13, 15, 16 and 22-25 based on §103(a) because Kimpton and Rosenband do not teach or suggest the structure claimed in Applicant’s invention.

**Remarks regarding Examiner’s rejection of Claim 17 under 35 U.S.C. §103(a):**

The Examiner has rejected Claim 17 under 35 U.S.C. § 103(a) as being unpatentable over Kimpton in view of U.S. Patent No. 5,908,119 (“Kump”). The references the Examiner has cited, either taken alone or combined, do not teach or suggest the Applicant’s invention as claimed. A review of the two references, Kimpton and Kump, shows that they are bereft of offering a device that teaches or suggests the Applicant’s invention.

Claim 17 depends from claim 10 which requires recessed structural beams having a return flange at their base and a recessed flange at their top. As discussed above, Kimpton does

not teach or suggest structural beams having a return flange at their base and a recessed flange at their top. Kump does not remedy this deficiency; as stated by the Examiner, Kump teaches a hook for the purpose of hanging articles. Thus Kimpton and Kump do not teach or suggest the structural beams having a return flange at their base and a recessed flange at their top as claimed in Applicant's invention.

Furthermore, claim 17 also depends from claim 14 which requires a shelf member that contains "a slight taper from the base to the top of said shelf member so that the distance from the end of the shelf member base to the vertical centerline of the shelf member is greater than the distance from the end of the shelf member top to the vertical centerline of the shelf member, [where] said taper allows clearance for various attachments." As discussed above, Kimpton does not teach or suggest such a shelf member. Kump does not remedy this deficiency; although Kump does teach a hook for the purpose of hanging articles, Kump does not teach or suggest the claimed tapered shelf member for use with the hooked attachments of the present invention. The hook of Kump is for attachment to a vertical wall of a shelf or through apertures in a rack, in contrast to fitting between the structural beam and the tapered wall of the shelf member as in the claimed invention.

The Applicant respectfully disagrees with the Examiner's rejection of claim 17 based on §103(a) because Kimpton and Kump do not teach or suggest the structure claimed in Applicant's invention.

**CONCLUSION**

A favorable disposition concerning our response to the present Office Action is hereby respectfully requested.

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